

EXHIBIT D

From: Zachary C. Howenstine
Sent: Wednesday, September 22, 2021 3:14 PM
To: Allan, Michael
Cc: 'Brian Levine'; 'Pat Torres'; Toth, Bill; Maggie Szewczyk; rgilmore@steinmitchell.com; Richard L. Brophy; Saxon, Sheila
Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS,INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

Unfortunately, RCN cannot agree to Rightscorp's attempts to impose additional limitations on the discovery it is willing to provide. RCN is entitled to examine all of the databases addressed in my September 7 email, in full, not some subset of those databases and not new databases created by Rightscorp for purposes of this litigation. To be clear, RCN is simply asking that Rightscorp make existing databases available for inspection, at Rightscorp's offices. This is not a significant ask given that these databases are how Rightscorp claims it stores all evidence of copyright infringement obtained by its system.

Rightscorp has not provided a legitimate basis for refusing this discovery. It will be less burdensome for Rightscorp to provide access to the full, existing databases than to create new databases that are ostensibly specific to RCN. RCN is willing to agree to AEO treatment for the information contained therein, and we will consider any other security or confidentiality requirements Rightscorp may desire for the inspection and/or subsequent use of the material.

As always, we are willing to discuss further if you believe that would be useful. However, given the amount of time that has passed since RCN first raised this issue and the amount of effort we expended to obtain a response, we believe the parties have reached an impasse.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Allan, Michael <mallan@steptoe.com>
Sent: Friday, September 17, 2021 5:50 PM
To: Zachary C. Howenstine <ZHowenstine@atllp.com>
Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atllp.com>; rgilmore@steinmitchell.com; Richard L. Brophy <RBrophy@atllp.com>; Saxon, Sheila <Ssaxon@steptoe.com>
Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS,INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Dear Zach:

We write in connection with RCN's request to access Rightscorp's native database from which the .csv files (reflecting the Rightscorp data produced in production nos. RC-001, RC-002, and RC-003) were exported. We disagree entirely with RCN's claimed need to access the native of Rightscorp's database given Rightscorp's prior production of the .csv files in this case. Nevertheless, to avoid burdening the court with yet another discovery dispute, Rightscorp will create a duplicate copy of the native database that includes only information related to RCN. We will make the duplicate copy of the native database available for RCN's inspection at Steptoe's LA office. If you prefer to access the database at another location, please let me know and we will work with you to try and find a suitable location.

Please advise if this is acceptable to RCN.

Mike

Michael J. Allan
Partner

Step toe

Step toe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
+1 202 429 6749 direct | +1 202 429 3902 fax | mallan@step toe.com | www.step toe.com

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From: Zachary C. Howenstine <ZHowenstine@atl lp.com>

Sent: Thursday, September 16, 2021 10:40 AM

To: Allan, Michael <mallan@step toe.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@step toe.com>; Maggie Szewczyk <MSzewczyk@atl lp.com>; rgilmore@steinmitchell.com; Richard L. Brophy <RBrophy@atl lp.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

Please provide an update on this.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Allan, Michael <mallan@step toe.com>

Sent: Friday, September 10, 2021 2:42 PM

To: Zachary C. Howenstine <ZHowenstine@atl lp.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@step toe.com>; Maggie

Szewczyk <MSzewczyk@atllp.com>; rgilmore@steinmitchell.com; Richard L. Brophy <RBrophy@atllp.com>
Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-
IDOCs.FID3699945]

Zach, it looks like we will need a bit more time to investigate your request related to the database. We will let you know Rightscorp's position early next week.

From: Allan, Michael

Sent: Thursday, September 9, 2021 10:54 AM

To: 'Zachary C. Howenstine' <ZHowenstine@atllp.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atllp.com>; rgilmore@steinmitchell.com; Richard L. Brophy <RBrophy@atllp.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-
IDOCs.FID3699945]

Zach,

I am in the process of discussing this with Rightscorp. I will do my best to respond to you today, but will get back to you by the end of the day tomorrow at the latest.

Mike

Michael J. Allan
Partner

Step toe

Step toe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
+1 202 429 6749 direct | +1 202 429 3902 fax | mallan@steptoe.com | www.steptoe.com

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From: Zachary C. Howenstine <ZHowenstine@atllp.com>

Sent: Tuesday, September 7, 2021 11:34 AM

To: Allan, Michael <mallan@steptoe.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atllp.com>; rgilmore@steinmitchell.com; Richard L. Brophy <RBrophy@atllp.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-
IDOCs.FID3699945]

Mike,

We are writing to follow up on last week's meet and confer regarding the production of databases from Rightscorp's system. We have been trying for many months to get a firm answer from Rightscorp and plaintiffs as to whether these databases will be produced or made available for inspection.

To reiterate, RCN seeks the production of, or at least the opportunity to inspect, the SQL databases that Rightscorp has used and continues to use to store data and information obtained during the operation of its system, including from individual BitTorrent users. The information in these databases is clearly relevant and response to at least RFP No. 3 to Rightscorp. Furthermore, plaintiffs and Rightscorp have represented that certain spreadsheets produced in this case contain information extracted from these databases. RCN is entitled to obtain or inspect the complete databases to verify the accuracy and completeness of this information and to understand the processes by which information is stored. Additionally, as we explained in our call last week, these are relational databases that relate certain data to other

data, and those relationships were lost/obscured when plaintiffs produced information from the databases in spreadsheet form.

We separately sent you testimony from Greg Boswell in the Grande case about the content of these databases. Additionally, Boswell clearly testified in his 7/3/15 deposition in the Cox case (pp. 71-72) that these databases contain information, including bitfield data, that has not been produced in this case:

Q: And what information does Rightscorp gather about the infringing activity for each instance of infringement? ...

A: ... we gather that we have connected to an IP and a port, they have said that they have – by continuing to open on the socket and communicate with us, they have indicated that they have – have the torrent, the dot torrent file, and its payload that we're looking for. We gather that information up, digest it down, and send it into a database.

Q: You say 'we gather that information up,' what is that information, to be precise?

A: That information would be the port, the IP, timestamp, bit field, if they share it...

As we have repeatedly stated in previous emails and telephone discussions, we are prepared to make whatever accommodations are necessary to facilitate the production of these databases. We are also willing to discuss appropriate procedures for an inspection of the databases. We intend to move for an order requiring Rightscorp to produce these databases if the parties are unable to come to an agreement. Please let us know Rightscorp's position by September 9.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Zachary C. Howenstine

Sent: Friday, August 27, 2021 9:59 AM

To: Allan, Michael <mallan@steptoe.com>; Richard L. Brophy <RBrophy@atlpl.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atlpl.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

Wednesday at 11am ET works. I'll send an invite.

Attached is more detailed correspondence about the database(s). Rightscorp should be well aware of this issue since we have been asking about it for months.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Allan, Michael <mallan@steptoe.com>

Sent: Friday, August 27, 2021 9:53 AM

To: Zachary C. Howenstine <ZHowenstine@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atllp.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Zach:

I can speak on Wednesday at 11 am. Does that work?

Your emails make reference to a "database" that has not been produced. I will need more information from you as to what you are looking for here. Please provide me with some additional detail so we can consider your request.

Thanks,
Mike

Michael J. Allan
Partner

Steptoe

Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036

+1 202 429 6749 direct | +1 202 429 3902 fax | mallan@steptoe.com | www.steptoe.com

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From: Zachary C. Howenstine <ZHowenstine@atllp.com>

Sent: Tuesday, August 24, 2021 4:49 PM

To: Allan, Michael <mallan@steptoe.com>; Richard L. Brophy <RBrophy@atllp.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>; Maggie Szewczyk <MSzewczyk@atllp.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

The issues we would like to meet and confer about are not addressed in the August 13 letter to the court. I previously forwarded the relevant correspondence and it's attached again here – please see the July 23 and August 4 emails that identify a number of specific issues on which we have been awaiting a response from Rightscorp.

We appreciate that you just entered in the case and need to get up to speed. But the parties have a September 13 deadline to file motions to compel concerning written discovery, so we can't just sit back and patiently wait. We

understand from your email that you are not available to meet and confer until next week. How about Tuesday August 31 at 2pm ET?

Side note: I added Maggie Szewczyk to this chain, and she should be copied on all case correspondence going forward.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Allan, Michael <mallan@steptoe.com>

Sent: Tuesday, August 24, 2021 4:21 PM

To: Zachary C. Howenstine <ZHowenstine@atltp.com>; Richard L. Brophy <RBrophy@atltp.com>

Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Zach:

We are in receipt of your August 13 letter to the Court wherein RCN has represented that RCN and Rightscorp are at an impasse related to a number of pending discovery disputes. We are focused on and in the process of preparing a response to that letter. If your meet and confer request is related to issues that RCN has already put before the Court, I would suggest you withdraw your August 13 letter. If you would like to discuss issues that were not raised in the August 13 letter, I would ask you to identify the specific issues you would like to meet and confer about.

As you know, this firm just entered an appearance on behalf of Rightscorp and we are working hard to get up to speed. As mentioned, we are focused now on the numerous issues you have raised in your August 13 letter and preparing our response to that letter. In the event RCN does not withdraw that letter and clearly identifies new areas of alleged dispute or deficiency, we will review with Rightscorp and be in a position to discuss with you next week.

Regards,
Mike

Michael J. Allan
Partner

Steptoe

Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
+1 202 429 6749 direct | +1 202 429 3902 fax | mallan@steptoe.com | www.steptoe.com

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From: Zachary C. Howenstine <ZHowenstine@atllp.com>
Sent: Tuesday, August 24, 2021 1:28 PM
To: Allan, Michael <mallan@steptoe.com>; Richard L. Brophy <RBrophy@atllp.com>
Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>
Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-
IDOCs.FID3699945]

Mike,

I'm following up on the below emails. It has now been over a month since Brad Newberg informed us he was withdrawing from the case, and we still don't know who speaks for Rightscorp, much less what Rightscorp's position is on the various outstanding discovery matters.

Again, please let us know your availability to meet and confer. We are available tomorrow 8/25 at 10am, 11am, 2pm, or 3pm or Thursday 8/26 at 10am, 1pm, or 2pm (all times ET). If another time would be better, let us know and we'll try to make it work.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

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From: Zachary C. Howenstine
Sent: Sunday, August 22, 2021 11:40 AM
To: 'Allan, Michael' <mallan@steptoe.com>; Richard L. Brophy <RBrophy@atllp.com>
Cc: 'Brian Levine' <blevine@bllawnj.com>; 'Pat Torres' <ptorres@bllawnj.com>; Toth, Bill' <btoth@steptoe.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS,INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

Following up on the below, attached is our most recent correspondence regarding outstanding Rightscorp discovery issues.

We would like to schedule a meet and confer this week to discuss these issues. We propose Tuesday at 2pm ET – please let us know if that works for you.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Zachary C. Howenstine

Sent: Thursday, August 19, 2021 12:04 PM

To: Allan, Michael <mallan@steptoe.com>; Richard L. Brophy <RBrophy@atllp.com>

Cc: Brian Levine <blevine@bllawnj.com>; Pat Torres <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>

Subject: RE: 19-cv-17272-MAS-TJB UMG RECORDINGS,INC. et al v. RCN TELECOM SERVICES, LLC et al [IWOV-IDOCS.FID3699945]

Mike,

Welcome to the case.

Defendants consent to your and Bill's pro hac applications, but we are obligated to note one issue. In case you are not aware, Rightscorp has produced certain emails from or with you, concerning (in broad strokes) Rightscorp's efforts to market its services to the record labels. As a result, we cannot rule out the possibility that you will be a fact witness in this matter and/or that defendants will serve a subpoena for documents on you or your firm. In short, defendants reserve the right to pursue any and all discovery to which they may be entitled, irrespective of whether that may give rise to a conflict of interest that impacts your representation of Rightscorp.

Additionally, in light of your statement that you will be "assisting" Mr. Levine, we would like to understand who is lead counsel for Rightscorp. As you probably know, there are a number of outstanding issues concerning Rightscorp's responses to defendants' discovery requests. Until now, we've been dealing exclusively with Brad Newberg and Rob Gilmore on those matters. Can we now direct those inquiries to you and Bill?

Please let us know if you would like to discuss.

Thanks,

Zach



Armstrong Teasdale LLP

Zachary C. Howenstine

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

From: Allan, Michael <mallan@steptoe.com>

Sent: Wednesday, August 18, 2021 5:00 PM

To: Richard L. Brophy <RBrophy@atlpl.com>; Zachary C. Howenstine <ZHowenstine@atlpl.com>

Cc: Brian Levine <blevine@bllawnj.com>; Pat Torres <ptorres@bllawnj.com>; Toth, Bill <btoth@steptoe.com>

Subject: 19-cv-17272-MAS-TJB UMG RECORDINGS, INC. et al v. RCN TELECOM SERVICES, LLC et al

CAUTION: EXTERNAL EMAIL

Richard and Zach:

I hope you both are doing well. We have been asked to assist Mr. Levine in representing Rightscorp in the referenced matter. Please let us know if you will consent to my pro hac vice admission and that of my colleague Bill Toth.

Thank you,
Mike

Michael J. Allan
Partner

Steptoe

Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036

+1 202 429 6749 direct | +1 202 429 3902 fax | mallan@steptoe.com | www.steptoe.com

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